

Case 3:04-cv-00143 Document 118 Filed 11/02/05 Page 1 of 3 PageID #: 1548

3. Defendant Rutherford County and Judy Goodwin's Supplemental Response to Plaintiffs' Response in Opposition to their Motion for Summary Judgment, was the first direct introduction by RCBE and Goodwin of Judy Goodwin's sworn testimony at the criminal trial for Defendant, Steven Craig Fults.

4. Plaintiffs would show that the testimony of Judy Goodwin upon which Defendant's Supplemental Response is partially based on its face contradictory and should be treated with the utmost scrutiny by this Court.

5. When asked if she personally knew that Fults was homosexual, Goodwin responded in the affirmative. (Transcript from State v. Steven C. Fults no. F-54333, Circuit Court for Rutherford County at Murfreesboro, page 275.)

6. Subsequently, at the same hearing, Defendant Judy Goodwin was asked "In the three years that you have known Mr. Fults, had he ever revealed to you that he was homosexual?" Judy Goodwin's response was "That was never expressed to me." (*Id.* at p. 287).

7. In her deposition testimony taken on behalf of Plaintiffs in the instant matter, Defendant Goodwin gave an account of how she first became aware of Defendant Fults' sexual orientation. Said account is both detailed and completely inconsistent with Goodwin's testimony at the criminal trial. (Deposition of Judy Goodwin at pp. 50-52.)

Plaintiffs respectfully submit that the inconsistent and overtly contradictory testimony offered by Defendant Judy Goodwin is alone enough to create significant disputed issues of material fact thus precluding summary judgment for these Defendants.

Respectfully submitted,

**BY:** \_\_\_\_\_/s Jeffery B. Cox \_\_\_\_\_  
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**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that a true and correct copy of the foregoing has been forwarded via United States Mail, postage prepaid to:

R. Dale Bay  
Charles W. Cagle  
Deb A. Smith  
SunTrust bank Building  
201 Fourth Avenue North, Ste. 1500  
P.O. Box 198615  
Nashville, TN 37219  
615-259-1366

And via Certified Mail, Return Receipt Requested to:

Steven Craig Fults  
Southern Tennessee State  
Regional Correctional Facility  
Route 4 Box 600  
Pikeville, Tennessee 37367

On this the 31<sup>st</sup> day of October, 2005.

\_\_\_\_\_/s Jeffery B. Cox \_\_\_\_\_  
JEFFERY B. COX